

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 116 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

PRAFULCHANDRA DILIPRAY TRIVEDI

Versus

DISTRICT PANCHAYAT

Appearance:

MRS MC THAKKER for Appellant.

MR PM RAVAL for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 17/09/97

ORAL JUDGEMENT

This Appeal is directed against the order dated 17.3.1989 passed by the learned District Judge, Junagadh rejecting the interim injunction application filed by the Appellant-Plaintiff in Regular Civil Suit No. 184 of 1989.

2. The suit was filed for a declaration that the

order dated 10.3.1989 passed by the District Development Officer, Junagadh, transferring the Appellant was illegal and invalid. During the pendency of the suit, the plaintiff filed an application for interim injunction against the implementation of the order of transfer. After initially granting ex parte injunction, the Trial Court after bi-parte hearing rejected the interim injunction application and vacated the ad-interim order of status-quo.

3. While issuing notice in the present Appeal, this Court had also continued the said order of status-quo. The Appellant had earlier filed application for taking action against the respondent for committing breach of the interim injunction but that came to be dismissed in June, 1989.

4. As per the settled legal position, the Courts are ordinarily not to interfere with orders of transfer. Otherwise also, in view of the fact that the transfer order under challenge was passed in 1989, and a period of nine years has elapsed thereafter, this Appeal is not required to be heard on merits. At the same time, the Competent Authority will be at liberty to pass a fresh order in accordance with law.

5. In case the appellant still wants to press the contention that the District Development Officer has no authority to transfer the appellant, it will be open to him to raise such contention at the hearing the suit before the trial Court, but there shall be no interim injunction on this ground.

6. Subject to the above clarification, the Appeal is dismissed. Interim relief stands vacated.

m.m.bhatt